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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,795	02/19/2002	Robert Bridges	BOUL/0007	1519
7590 08/16/2004			EXAMINER	
William B Patterson Moser Patterson & Sheridan Suite 1500 3040 Post Oak Boulevard Houston, TX 77056			COHEN, AMY R	
			ART UNIT	PAPER NUMBER
			2859	
DATE MAILED: 08/16/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/936,795		BRIDGES, ROBERT	
	<b>Examiner</b>		<b>Art Unit</b>	
	Amy R Cohen		2859	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on RCE 7/6/2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 31-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 31 rejected under 35 U.S.C. 102(b) as being anticipated by Payne (U. S. Patent No. 4,306,127).

Payne teaches a method of detecting a chemical leakage (Col 3, lines 4-11) comprising the steps of: positioning a device in a site of potential chemical leakage (Col 4, lines 7-14), the device (10) comprising an indicator element (41) which is held in a first position by means of a failure element (25) which is held in tension (Col 3, lines 29-47), the failure element being made of a material which fails in the event of a chemical leak (Col 5, lines 12-21), thereby releasing the indicator element from its first position and allowing it to move into a second position in order to provide a rapid indication of the leak (Col 5, lines 26-39); and monitoring the failure element to determine when it has moved to the second position indicating the presence of a leak (Col 6, lines 27-48).

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Payne.

Payne discloses the method of detecting a chemical leakage as described above in paragraph 2.

Payne does not disclose a method of detecting a chemical leakage comprising the steps of: positioning an arrangement, the arrangement comprising a plurality of devices arranged over an area; and monitoring each failure element to determine when it has moved to the second position.

Regarding the plurality of devices: Payne discloses an indicating device for determining a leakage at a particular location. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a plurality of devices, each device for indicating a leakage, since it has been held that the mere duplication of the essential working parts of a device involves only routine skill in the art. St. Regis Paper Co. v. Bemis Co., 193 USPQ 8. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a plurality of indicating devices and to monitor each indicating device so that multiple leakages could be detected over an area of interest.

5. Claims 33-35 rejected under 35 U.S.C. 103(a) as being unpatentable over Heintzelman et al. (U. S. Patent No. 5,030,033) in view of Payne (U. S. Patent No. 4,306,127).

Heintzelman discloses a method of detecting leaks from a vessel in a filling station containing a potential source of chemical contaminants (Col 3, line 59-Col 4, line 27), the method comprising the steps of: positioning a device in the ground beneath a vessel (Figs. 1 and 13); and monitoring a failure element to determine when it has moved to a second position indicating the presence of a leak (Col 10, lines 37-64).

Heintzelman et al. does not disclose the method whereby the device for detecting the presence of a chemical contaminant comprises an indicator element which is held in a first

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position by means of the failure element which is held in tension, the failure element being made of a material which fails in the presence of the chemical contaminant, thereby releasing the indicator element from its first position and allowing it to move into a second position in order to provide an indication of the presence of the contaminant; comprising an arrangement comprising a plurality of devices.

Payne discloses a method of detecting a chemical leakage (Col 3, lines 4-11) comprising the steps of: positioning a device in a site of potential chemical leakage (Col 4, lines 7-14), the device (10) comprising an indicator element (41) which is held in a first position by means of a failure element (25) which is held in tension (Col 3, lines 29-47), the failure element being made of a material which fails in the event of a chemical leak (Col 5, lines 12-21), thereby releasing the indicator element from its first position and allowing it to move into a second position in order to provide a rapid indication of the leak (Col 5, lines 26-39); and monitoring the failure element to determine when it has moved to the second position indicating the presence of a leak (Col 6, lines 27-48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the leakage detector of Heintzelman et al. to have the structure of the leakage detector of Payne, since Heintzelman et al. discloses that several types of leakage detectors could be used (Heintzelman et al., Col 10, lines 37-64) and since Payne discloses using the leakage detector in several types of apparatus (Payne, Col 3, lines 4-14).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose leakage detectors Argyle et al. (U. S. Patent No. 5,253,674) and Zuck, Jr. (U. S. Patent No. 3,621,810).

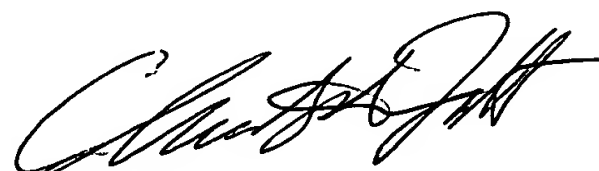
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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC  
August 11, 2004



Christopher Fulton  
Primary Examiner  
Tech Center 2800